

62.24

**ARTICLE 3**

62.25

**DRIVING WHILE IMPAIRED SEARCH WARRANT CHANGES**

62.26 Section 1. Minnesota Statutes 2020, section 169A.51, subdivision 3, is amended to read:

62.27 Subd. 3. **Blood or urine tests; search warrant required.** (a) Notwithstanding any  
62.28 contrary provisions in sections 169A.51 to 169A.53, a blood or urine test may be conducted  
62.29 only pursuant to a search warrant ~~under sections 626.04 to 626.18~~; or a judicially recognized  
62.30 exception to the search warrant requirement. In addition, blood and urine tests may be  
62.31 conducted only as provided in sections 169A.51 to 169A.53 and 171.177.

63.1 (b) When, under the provisions of section 169A.20, 169A.51, or 171.177, a search  
63.2 warrant is required for a blood or urine test, that requirement is met if a judicially recognized  
63.3 exception to the warrant requirement is applicable.

63.4 Sec. 2. Minnesota Statutes 2020, section 169A.51, subdivision 4, is amended to read:

63.5 Subd. 4. **Requirement of urine or blood test.** A blood or urine test may be required  
63.6 pursuant to a search warrant ~~under sections 626.04 to 626.18~~ even after a breath test has  
63.7 been administered if there is probable cause to believe that:

63.8 (1) there is impairment by a controlled substance or an intoxicating substance that is not  
63.9 subject to testing by a breath test;

63.10 (2) a controlled substance listed in Schedule I or II or its metabolite, other than marijuana  
63.11 or tetrahydrocannabinols, is present in the person's body; or

63.12 (3) the person is unconscious or incapacitated to the point that the peace officer providing  
63.13 a breath test advisory, administering a breath test, or serving the search warrant has a  
63.14 good-faith belief that the person is mentally or physically unable to comprehend the breath  
63.15 test advisory or otherwise voluntarily submit to chemical tests.

63.16 Action may be taken against a person who refuses to take a blood test under this  
63.17 subdivision only if a urine test was offered and action may be taken against a person who  
63.18 refuses to take a urine test only if a blood test was offered. This limitation does not apply  
63.19 to an unconscious person under the circumstances described in clause (3).

63.20 Sec. 3. Minnesota Statutes 2020, section 169A.51, is amended by adding a subdivision to  
63.21 read:

63.22 Subd. 8. **Definition.** As used in this section, a "search warrant" means a judicially  
63.23 approved search warrant obtained pursuant to the requirements in sections 626.04 to 626.18  
63.24 or conforming statutes in an adjacent state.

63.25 Sec. 4. Minnesota Statutes 2020, section 171.177, subdivision 1, is amended to read:

63.26 Subdivision 1. **Search warrant-required testing advisory.** At the time a blood or urine  
63.27 test is directed pursuant to a search warrant ~~under sections 626.04 to 626.18~~, the person  
63.28 must be informed that refusal to submit to a blood or urine test is a crime.

64.1 Sec. 5. Minnesota Statutes 2020, section 171.177, subdivision 3, is amended to read:

64.2 Subd. 3. **License revocation pursuant to search warrant.** After executing a search  
64.3 warrant ~~under sections 626.04 to 626.18~~ for the collection of a blood or urine sample based  
64.4 upon probable cause of a violation of section 169A.20, the peace officer acting under sections  
64.5 626.13 to 626.17 shall certify to the commissioner of public safety:

64.6 (1) when a person refuses to comply with the execution of the search warrant; or

64.7 (2) if a person submits to the test and the test results indicate:

64.8 (i) an alcohol concentration of 0.08 or more;

64.9 (ii) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in  
64.10 physical control of a commercial motor vehicle at the time of the violation; or

64.11 (iii) the presence of a controlled substance listed in Schedule I or II or its metabolite,  
64.12 other than marijuana or tetrahydrocannabinols.

64.13 Sec. 6. Minnesota Statutes 2020, section 171.177, subdivision 4, is amended to read:

64.14 Subd. 4. **Test refusal; license revocation.** (a) Upon certification under subdivision 3  
64.15 that there existed probable cause to believe the person had been driving, operating, or in  
64.16 physical control of a motor vehicle in violation of section 169A.20, and that the person  
64.17 refused to comply with the execution of the search warrant ~~under sections 626.04 to 626.18~~,  
64.18 the commissioner shall revoke the person's license or permit to drive or nonresident operating  
64.19 privilege. The commissioner shall revoke the license, permit, or nonresident operating  
64.20 privilege:

64.21 (1) for a person with no qualified prior impaired driving incidents within the past ten  
64.22 years, for a period of not less than one year;

64.23 (2) for a person under the age of 21 years and with no qualified prior impaired driving  
64.24 incidents within the past ten years, for a period of not less than one year;

64.25 (3) for a person with one qualified prior impaired driving incident within the past ten  
64.26 years or two qualified prior impaired driving incidents, for a period of not less than two  
64.27 years;

64.28 (4) for a person with two qualified prior impaired driving incidents within the past ten  
64.29 years or three qualified prior impaired driving incidents, for a period of not less than three  
64.30 years;

- 65.1 (5) for a person with three qualified prior impaired driving incidents within the past ten  
65.2 years, for a period of not less than four years; or
- 65.3 (6) for a person with four or more qualified prior impaired driving incidents, for a period  
65.4 of not less than six years.
- 65.5 (b) When a person who had been driving, operating, or in physical control of a  
65.6 commercial motor vehicle refuses to comply with the search warrant and permit testing,  
65.7 the commissioner shall disqualify the person from operating a commercial motor vehicle  
65.8 and shall revoke the person's license or permit to drive or nonresident operating privilege  
65.9 according to the federal regulations adopted by reference in section 171.165, subdivision  
65.10 2.
- 65.11 Sec. 7. Minnesota Statutes 2020, section 171.177, subdivision 5, is amended to read:
- 65.12 Subd. 5. **Test failure; license revocation.** (a) Upon certification under subdivision 3,  
65.13 pursuant to a search warrant ~~under sections 626.04 to 626.18~~, that there existed probable  
65.14 cause to believe the person had been driving, operating, or in physical control of a motor  
65.15 vehicle in violation of section 169A.20, and that the person submitted to a test and the test  
65.16 results indicate an alcohol concentration of 0.08 or more or the presence of a controlled  
65.17 substance listed in Schedule I or II or its metabolite, other than marijuana or  
65.18 tetrahydrocannabinols, the commissioner shall revoke the person's license or permit to drive  
65.19 or nonresident operating privilege:
- 65.20 (1) for a period of 90 days or, if the test results indicate an alcohol concentration of twice  
65.21 the legal limit or more, not less than one year;
- 65.22 (2) if the person is under the age of 21 years, for a period of not less than 180 days or,  
65.23 if the test results indicate an alcohol concentration of twice the legal limit or more, not less  
65.24 than one year;
- 65.25 (3) for a person with one qualified prior impaired driving incident within the past ten  
65.26 years or two qualified prior impaired driving incidents, for a period of not less than one  
65.27 year or, if the test results indicate an alcohol concentration of twice the legal limit or more,  
65.28 not less than two years;
- 65.29 (4) for a person with two qualified prior impaired driving incidents within the past ten  
65.30 years or three qualified prior impaired driving incidents, for a period of not less than three  
65.31 years;
- 65.32 (5) for a person with three qualified prior impaired driving incidents within the past ten  
65.33 years, for a period of not less than four years; or
- 66.1 (6) for a person with four or more qualified prior impaired driving incidents, for a period  
66.2 of not less than six years.
- 66.3 (b) On certification by the peace officer that there existed probable cause to believe the  
66.4 person had been driving, operating, or in physical control of a commercial motor vehicle

66.5 with any presence of alcohol and that the person submitted to a test and the test results  
66.6 indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the  
66.7 person from operating a commercial motor vehicle under section 171.165.

66.8 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of  
66.9 Criminal Apprehension or authorized by the bureau to conduct the analysis of a blood or  
66.10 urine sample, the laboratory may directly certify to the commissioner the test results, and  
66.11 the peace officer shall certify to the commissioner that there existed probable cause to  
66.12 believe the person had been driving, operating, or in physical control of a motor vehicle in  
66.13 violation of section 169A.20, and that the person submitted to a test. Upon receipt of both  
66.14 certifications, the commissioner shall undertake the license actions described in paragraphs  
66.15 (a) and (b).

66.16 Sec. 8. Minnesota Statutes 2020, section 171.177, subdivision 8, is amended to read:

66.17 Subd. 8. **Test refusal; driving privilege lost.** (a) On behalf of the commissioner, a peace  
66.18 officer requiring a test or directing the administration of a chemical test pursuant to a search  
66.19 warrant ~~under sections 626.04 to 626.18~~ shall serve immediate notice of intention to revoke  
66.20 and of revocation on a person who refuses to permit a test or on a person who submits to a  
66.21 test, the results of which indicate an alcohol concentration of 0.08 or more.

66.22 (b) On behalf of the commissioner, a peace officer requiring a test or directing the  
66.23 administration of a chemical test of a person driving, operating, or in physical control of a  
66.24 commercial motor vehicle pursuant to a search warrant ~~under sections 626.04 to 626.18~~  
66.25 shall serve immediate notice of intention to disqualify and of disqualification on a person  
66.26 who refuses to permit a test or on a person who submits to a test, the results of which indicate  
66.27 an alcohol concentration of 0.04 or more.

66.28 (c) The officer shall:

66.29 (1) invalidate the person's driver's license or permit card by clipping the upper corner  
66.30 of the card in such a way that no identifying information including the photo is destroyed,  
66.31 and immediately return the card to the person;

66.32 (2) issue the person a temporary license effective for only seven days; and

67.1 (3) send the notification of this action to the commissioner along with the certificate  
67.2 required by subdivision 5 or 6.

67.3 Sec. 9. Minnesota Statutes 2020, section 171.177, subdivision 12, is amended to read:

67.4 Subd. 12. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing under  
67.5 this section must be before a district judge in any county in the judicial district where the  
67.6 alleged offense occurred. The hearing is to the court and may be conducted at the same time  
67.7 and in the same manner as hearings upon pretrial motions in the criminal prosecution under  
67.8 section 169A.20, if any. The hearing must be recorded. The commissioner shall appear and  
67.9 be represented by the attorney general or through the prosecuting authority for the jurisdiction  
67.10 involved. The hearing must be held at the earliest practicable date, and in any event no later

- 67.11 than 60 days following the filing of the petition for review. The judicial district administrator  
67.12 shall establish procedures to ensure efficient compliance with this subdivision. To accomplish  
67.13 this, the administrator may, whenever possible, consolidate and transfer review hearings  
67.14 among the locations within the judicial district where terms of district court are held.
- 67.15 (b) The scope of the hearing is limited to the issues in clauses (1) to (13):
- 67.16 (1) Did the peace officer have probable cause to believe the person was driving, operating,  
67.17 or in physical control of a motor vehicle or commercial motor vehicle in violation of section  
67.18 169A.20?
- 67.19 (2) Was the person lawfully placed under arrest for violation of section 169A.20?
- 67.20 (3) Was the person involved in a motor vehicle accident or collision resulting in property  
67.21 damage, personal injury, or death?
- 67.22 (4) Did a licensed peace officer apply for a search warrant in accordance with the  
67.23 requirements set forth in sections 626.04 to 626.18 or conforming statutes in an adjacent  
67.24 state?
- 67.25 (5) Did a neutral magistrate review the application for a search warrant and determine  
67.26 there was probable cause to believe that the person was driving, operating, or in physical  
67.27 control of a motor vehicle or commercial motor vehicle in violation of section 169A.20?
- 67.28 (6) Was the search warrant and the process by which it was obtained valid?
- 67.29 (7) At the time of directing the person to take the test, did the peace officer inform the  
67.30 person that refusing the test was a crime as required by subdivision 1?
- 67.31 (8) Did the person refuse to permit the test?
- 68.1 (9) If a test was taken by a person driving, operating, or in physical control of a motor  
68.2 vehicle, did the test results indicate at the time of testing:
- 68.3 (i) an alcohol concentration of 0.08 or more; or
- 68.4 (ii) the presence of a controlled substance listed in Schedule I or II or its metabolite,  
68.5 other than marijuana or tetrahydrocannabinols?
- 68.6 (10) If a test was taken by a person driving, operating, or in physical control of a  
68.7 commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or  
68.8 more at the time of testing?
- 68.9 (11) Was the testing method used valid and reliable and were the test results accurately  
68.10 evaluated?
- 68.11 (12) Did the person prove the defense of necessity?
- 68.12 (13) Did the person prove the defense of controlled substance use in accordance with a  
68.13 prescription?

68.14 (c) Certified or otherwise authenticated copies of laboratory or medical personnel reports,  
68.15 records, documents, licenses, and certificates are admissible as substantive evidence.

68.16 (d) The court shall order that the revocation or disqualification be either rescinded or  
68.17 sustained and forward the order to the commissioner. The court shall file its order within  
68.18 14 days following the hearing. If the revocation or disqualification is sustained, the court  
68.19 shall also forward the person's driver's license or permit to the commissioner for further  
68.20 action by the commissioner if the license or permit is not already in the commissioner's  
68.21 possession.

68.22 (e) Any party aggrieved by the decision of the reviewing court may appeal the decision  
68.23 as provided in the Rules of Appellate Procedure.

68.24 (f) The civil hearing under this section shall not give rise to an estoppel on any issues  
68.25 arising from the same set of circumstances in any criminal prosecution.

68.26 (g) It is an affirmative defense for the petitioner to prove a necessity.

68.27 (h) It is an affirmative defense to the presence of a Schedule I or II controlled substance  
68.28 that the person used the controlled substance according to the terms of a prescription issued  
68.29 for the person according to sections 152.11 and 152.12, unless the court finds by a  
68.30 preponderance of the evidence that the use of the controlled substance impaired the person's  
68.31 ability to operate a motor vehicle.

69.1 Sec. 10. Minnesota Statutes 2020, section 171.177, subdivision 14, is amended to read:

69.2 Subd. 14. **Definitions.** (a) The definitions in section 169A.03 apply to this section.

69.3 (b) For purposes of this section, a "search warrant" means a judicially approved search  
69.4 warrant obtained pursuant to the requirements of sections 626.04 to 626.18 or conforming  
69.5 statutes in an adjacent state.